

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2066 OF 2025

Mohammad Kalim Maulana Shaikh	...Petitioner
<i>Versus</i>	
Chanbasappa Sidram Kamshetti & Anr.	...Respondents

Mr. I.M. Khairdi, Advocate for Petitioner.
Mr. Vishwanath Patil, Advocate a/w Mr. Akshay Naidu, for
Respondent No.1
Mr. D.J. Haldankar, APP for the State

CORAM: MADHAV J. JAMDAR, J.
DATED : 26th June 2025

P.C.:

1. Heard Mr. Khairdi, learned Counsel for the Petitioner, Mr. Patil, learned Counsel for the Respondent No.1 and Mr. Haldankar, learned APP for the State.

2. By the present Writ Petition filed under Article 227 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, the challenge is to the legality and validity of the Order dated 11th February 2025 passed by the learned District Judge-3 and Additional Sessions Judge, Solapur below Exhibit-4 in Criminal Appeal No.6 of 2025. The said Exhibit-

4 Application has been filed seeking suspension of sentence and seeking bail.

3. By the Judgment and Order dated 4th January 2025, the learned J.M.F.C., Solapur passed in STC No.1369 of 2015, convicted the present Petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced him to suffer simple imprisonment for a period of six months. The Petitioner has been further directed to pay compensation of Rs.25,04,090/- and further, in default of payment, he shall suffer simple imprisonment for a period of two months.

4. By the impugned Order, the learned Appellate Court while suspending the sentence, has directed the Petitioner to deposit an aggregate amount of Rs.5,00,818/- and further observed that as an amount of Rs.2,50,409/- was already deposited before the learned Trial Court directed to deposit the balance amount of Rs.2,50,409/-.

5. Mr. Khairdi, learned Counsel for the Petitioner submits that the cheque amount was Rs.12,52,045/- and the Petitioner has

already deposited an amount of Rs.2,50,409/- before the learned Trial Court. Pursuant to the statement made before this Court, as recorded in the Order dated 19th June 2025, the Petitioner has deposited an amount of Rs.1,25,205/- on 25th June 2025. He therefore states that the total amount deposited is Rs.3,75,614/- i.e. 15% of the cheque amount. He states that there are very valid grounds raised in the Appeal. The financial condition of the Petitioner is not sound and therefore, the impugned Order be modified by directing that instead of deposit of total amount of Rs.5,00,818/-, the same be reduced to the amount of Rs.3,75,614/-, which has already been deposited in the Court.

6. On the other hand, Mr. Patil, learned Counsel for the Respondent No.1 strongly opposes the Writ Petition. He submitted that in the facts and circumstances, no interference is warranted in the impugned Order. He submitted that the cheque of Rs.12,52,045/- has been dishonoured, therefore, there is presumption that the cheque has been issued towards legally enforceable debt. He submits that the evidence on record do not show that the said presumption has been discharged by the

Petitioner. He therefore strongly opposes the prayers of the Petitioner.

7. However, perusal of record shows that this is a case where the Accused has examined himself as defence witness. The Appeal filed by the present Petitioner is admitted and pending before the learned Appellate Court. The Petitioner has already deposited an amount of Rs.3,75,614/- i.e. 15% of the cheque amount. Mr. Khairdi, Petitioner, submitted that the financial condition of the Petitioner is not sound.

8. Accordingly, in the facts and circumstances, although no interference in the impugned Order dated 11th February 2025 is warranted, the said Order is modified by directing that instead of payment of Rs.5,00,818/-, the Petitioner shall deposit an amount of Rs.3,75,614/-, which the Petitioner has already deposited. Accordingly, subject to the said modification, no interference in the impugned Order is warranted.

9. The Writ Petition is accordingly disposed of in above terms, with no order as to costs.

10. In the facts and circumstances, the learned Appellate Court is requested to dispose of the Appeal expeditiously.

BHALCHANDRA
GOPAL DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2025.06.27
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(MADHAV J. JAMDAR, J.)